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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 278 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

AIYUBSHA MOHAMADSHA DIWAN

Versus

STATE OF GUJARAT

Appearance:

MS JAYSHREE C BHATT for Petitioner

Mr H L Jani, APP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 27/08/98

ORAL JUDGEMENT

Heard the learned Advocates for the parties. The petitioner was served with show cause notice dated 22.4.1996 under section 59 of the Bombay Police Act. By order dated 25.10.1996, the Sub-Divisional Magistrate passed the order externing the petitioner for two years from Baroda City, Baroda District, Kheda District,

Bharuch and Panchmahal District. Against the said order, the petitioner approached the State Government under section 60 of the Bombay Police Act. The appeal was rejected by order dated 16.1.1997. The learned Advocate has challenged the order of externment on various grounds.

2. Having heard the learned Advocates for the parties, I do not find any substance in any of the contentions which call for interference in exercise of powers under Article 226 of the Constitution of India. It is lastly submitted by the learned Advocate for the petitioner that the petitioner has suffered externment for the substantive period and now only two months are left. It is also submitted that nothing untoward has been reported during the period. This prayer is being opposed by the learned AGP. It is submitted that there is nothing which warrant reduction of the period of externment. The learned AGP further submits that it would not be appropriate for this Court to interfere in the matter of externment under Article 226 of the Constitution of India. I have considered the rival contentions on the point of reduction of period of externment. Considering all the facts of the case and particularly the fact that the petitioner has already suffered substantial period and nothing untoward is reported. In my view, ends of justice would meet if two months period is reduced from the period of two years. The period of externment is reduced to the period already suffered.

3. In view of the aforesaid, this Special Criminal Application is allowed. The impugned order dated 25.10.1996 passed by the respondent No.2-Sub-Divisional Magistrate is modified to the extent that the period of externment is reduced to the period already suffered. Rule is partly made absolute to the aforesaid extent.

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msp.